

REMARKS

This Response is submitted in reply to the Office Action dated April 28, 2011. Claims 7 to 18 are pending in the present application. Claims 1 to 6 stand previously canceled. Claims 7 to 9, 11 to 13 and 18 are hereby amended. Claim 19 is hereby added. Claims 7, 8, 11 to 13 and 18 are in independent form. A Petition for a One Month Extension of Time to reply to the Office Action is submitted with this Response. Please charge Deposit Account No. 02-1818 for all payments due in connection with this Response.

The Office Action rejected Claims 7 to 13 and 15 to 17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,216,231 to Gehrman ("Gehrman") in view of U.S. Patent Publication No. 2003/0093542 to Saito ("Saito"). As best understood by the Applicant, it appears the Office Action also rejected independent Claim 18 under Gehrman and Saito. *If rejections are maintained in another Office Action, Applicant respectfully requests clarification of the rejection of Claims 18.* In view of the amendments made herein, Applicant respectfully disagrees with each of these rejections.

Gehrman discloses a system for establishing a wireless communication link. Fig. 2a of Gehrman (reproduced below) illustrates a user communications device 201 and a service communications device 211.

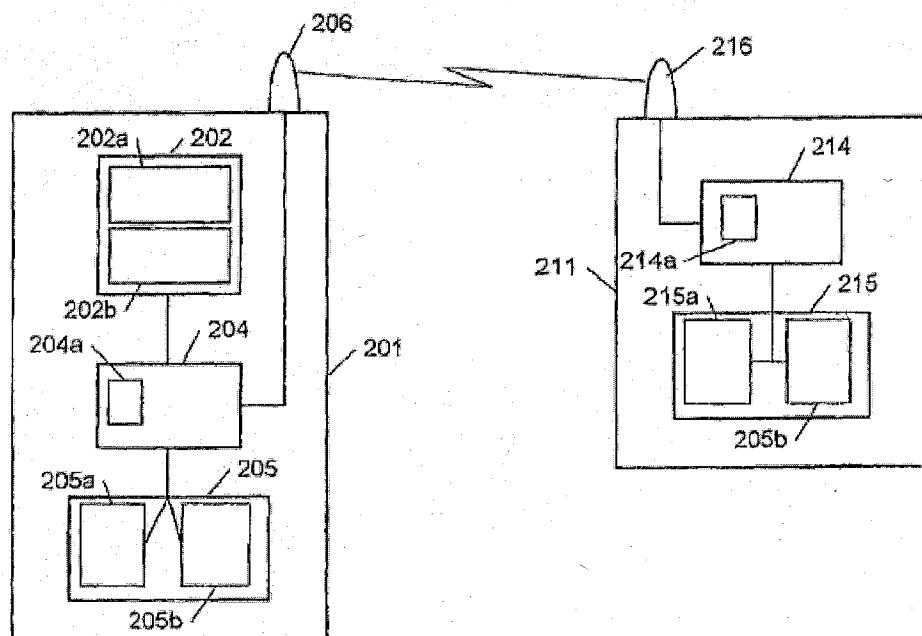


Fig. 2a

a communication system having a plurality of communication apparatuses (201 and 211 Fig. 2a), each of the plurality of first communication apparatuses comprising: first communication means (First is WAP utilizing WTLS, column 4, lines 33-40 and Fig. 3b), for executing a communication between each communication apparatus and a second communication apparatus (216, Fig. 2a) by a first communication protocol (column 2, lines 62-65)

In view thereof of, it appears the Office Action would interpret:

- (a) Gehrmann's user's communication device 201 as the first communication apparatus of Claim 7; and
- (b) Gehrmann's service communications device 211 as the second communication apparatus of Claim 7;

Applicant submits that Gehrmann's user's communication device 201 (i.e., the alleged first communication apparatus) does not transmit a request for available protocol information to Gehrmann's service communications device 211 (i.e., the alleged second communication apparatus). That is, the communication system resulting from a combination of Gehrmann and Saito does not disclose the following elements of Claim 7: acquisition means for transmitting, from one of the first communication apparatuses to the second communication apparatus, a request for available protocol information.

Additionally, page 13 of the Office Action stated Gehrmann in view of Sato discloses:

before (a) requesting usability of at least one communication protocol from the second communication apparatus (secure WTLS handshake, column 10, lines 55-60), the usability being: (i) sent to the at least one communication apparatus from the second communication apparatus (initialize connection between user device and service device, see Col. 10, lines 15-25 and 55-63); and (ii) indicative of a second communication protocol which is available by the second communication apparatus (identification keys are linked to Bluetooth, see Col. 4, lines 2-11 and note Col. 10, lines 46-53).

In view thereof, it appears the Office Action would interpret Gehrmann's second identification key as the received available protocol information of Claim 7.

Under this interpretation, Applicant submits that Gehrmann's second identification key (i.e., the alleged received available protocol information) is not indicative of each communication protocol which is available by the Gehrmann's service communications device

211 (i.e., the alleged second communication apparatus). Rather, Gehrman merely discloses that Gehrman's second identification key can be used:

in subsequent communications sessions between the user communications device and the first service communications device, e.g. for unit authentication, encryption or the like. (Gehrman, Column 3, lines 41 to 45).

That is, the communication system resulting from a combination of Gehrman and Saito does not disclose the following elements of Claim 7: receiving, from the second communication apparatus, the requested available protocol information, the received available protocol information being indicative of each communication protocol which is available by the second communication apparatus.

No new matter has been added by such amendments. Support for the amendments can be found in the Specification, for example, in at least paragraphs [0140] to [0142] of the application publication.

For at least these reasons, it is respectfully submitted that independent Claim 7 is patentably distinguished over Gehrman and Saito and in condition for allowance.

Independent Claims 8, 11 to 13 and 18 each include certain similar elements to independent Claim 7. For reasons similar to those discussed above with respect to independent Claim 7, independent Claims 8, 11 to 13 and 18 (and dependent Claims 9, 10 and 15 to 17) are each patentably distinguished over Gehrman and Saito and in condition for allowance.

The Office Action rejected Claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Gehrman in view of Saito and U.S. Patent Publication No. 2004/0193402 to Nolan et al. ("Nolan").

Applicant respectfully submits Nolan fails to cure the deficiencies of Gehrman and Saito discussed above. Because Claim 14 is dependent on independent Claim 13, Applicant submits Claim 14 is patentable over the cited prior art for at least the same reasons discussed above, and for the additional patentable elements recited therein.

New Dependent Claim 19

New dependent Claim 19 includes, among other elements, "wherein the acquisition means determines whether to switch to the communication protocol which is available by the another communication apparatus based on a transmission rate associated with the received available protocol information."

No new matter has been added by such new claim. Support for new Claim 19 can be found in the Specification, for example, in at least paragraph [0142] of the application publication.

Applicant submits that the art of record does not disclose the foregoing elements of new Claim 19. For at least this reason, it is respectfully submitted that new Claim 19 is in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance, and allowance is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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